



Attorney Docket: 01149/HG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicants : Yuki ABE et al.  
Serial No. : 09/836,705  
Filed : April 17, 2001  
Art Unit : 1652  
Examiner : Kathleen M. Kerr

DECLARATION OF MICROORGANISM DEPOSIT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S I R :

The undersigned duly authorized official of Sankyo Company, Limited, a corporation organized under the laws of Japan, and having its office in Tokyo, Japan, the Assignee of the entire interest of the above-identified application by virtue of an Assignment recorded on October 15, 2001 in the United States Patent and Trademark Office on Reel 012267, Frame 0949, declares that:

*Escherichia coli* pSAKexpr SANK 72599 was identified in the above-identified application as being deposited under number FERM BP-7006 (hereinafter referred to as the "deposited material") at the Research Institute of Life Science and Technology of the Agency of Industrial Science and Technology (located at 1-3, Higashi 1-chome, Tsukuba-shi, Ibaraki-ken, 305-8566 Japan), which is an international depository authority and which affords permanence of deposit and ready accessibility thereto by the public if a United States patent is granted.

(a) Said deposited material was made under the terms of the Budapest Treaty;

(b) Restrictions, if any, on the availability to the public of the deposited material will be irrevocably removed upon the granting of a United States patent.

The undersigned declares that all statements made herein of his own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Sankyo Company, Limited

Date: July 1, 2003

By: 

Name: Takashi SHODA

Representative Director

Corporate Title: and President



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Customer No. : 01933  
Confirmation No. : 7090

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Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.132

S I R :

I, Yuki ABE, declare as follows:

1. I am a coinventor of the above-identified patent application.

2. I graduated from the University of Tokyo, Japan in 1996, and I received a Master's degree in the field of agriculture.

3. I have worked for Sankyo Company, Limited of Tokyo, Japan, since 1996, and I presently a researcher.

4. The following information was generated by experiments that were carried out under my supervision.

Two panels are attached hereto. The two panels show the results of genomic southern blot hybridizations with the mlcR and the mlcE cDNA as probes, respectively. The hybridizations were performed according to Example 5 on pages 42 to 44 of the specification of application Serial No. 09/836,705, the entire contents of which are hereby incorporated by reference herein.

The genomic DNA of *Penicillium citrinum* SANK 13380, *Penicillium chrysogenum*, *Penicillium notatum*, *Penicillium italicum* and *Eupenicillium sinaicum* were digested separately with a restriction enzyme BamH 1 at 37°C for 2 hours and then loaded on lanes 1 to 5 of each gel, respectively.

Only one band was specifically detected in each lane of the left panel, and two bands were specifically detected in each lane of the right panel.

All of the *Penicillium* species *chrysogenum*, *notatum* and *italicum* and the *Eupenicillium* species *sinaicum* were confirmed to produce ML-236B and can be distinguished from *Penicillium citrinum* on the basis of the morphological and taxonomical analysis.

These results demonstrate that there are genes corresponding to mlcR and mlcE in the genome of ML-236B producing microorganisms and said genes contribute to the production of ML-236B in said microorganisms, and further that ML-236B-producing microorganisms other than *Penicillium citrinum* can be used as a host cell in the claimed methods.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or

imprisonment, or both, under Section 1001, of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: October 6, 2003

By:

Yuki Abe  
Yuki ABE